

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

DAVID JENSEN, and KIMBERLY
JENSEN,

Plaintiffs,

vs.

RSM ACQUISITION, LLC, and TRI-CITY
FOODS,

Defendants.

4:20CV3113

**FINAL PROGRESSION ORDER
(AMENDED)**

IT IS ORDERED that the parties' joint stipulation to amend the progression order is granted. (Filing No. 92). Deadlines not specifically amended by this order are unchanged. The unexpired deadlines in the amended final progression order (Filing No. 82) are amended as follows:

- 1) The trial and pretrial conference will not be set at this time. A status conference to discuss case progression, the parties' interest in settlement, and the trial and pretrial conference settings will be held with the undersigned magistrate judge on **January 17, 2023 at 9:00 a.m.** by telephone. Counsel shall use the conferencing instructions assigned to this case to participate in the conference.
- 2) The deadline for completing written discovery under Rules 33, 34, 36 and 45 of the Federal Rules of Civil Procedure is July 22, 2022. Motions to compel written discovery under Rules 33, 34, 36, and 45 must be filed by August 5, 2022.

Note: A motion to compel, to quash, or for a disputed protective order shall not be filed without first contacting the chambers of the undersigned magistrate judge to set a conference for discussing the parties' dispute.

- 3) The deadlines for complete expert disclosures¹ for all experts expected to testify at trial, (both retained experts, ([Fed. R. Civ. P. 26\(a\)\(2\)\(B\)](#)), and non-retained experts, ([Fed. R. Civ. P. 26\(a\)\(2\)\(C\)](#)), are:
- | | |
|-------------------------|--------------------|
| For the plaintiff(s): | August 18, 2022. |
| For the defendant(s): | November 15, 2022. |
| Plaintiff(s)' rebuttal: | December 27, 2022. |
- 4) The deposition deadline, including but not limited to depositions for oral testimony only under Rule 45, is January 11, 2023.
- a. The maximum number of depositions that may be taken by the plaintiffs as a group and the defendants as a group is 10.
- b. Depositions will be limited by Rule 30(d)(1).
- 5) The deadline for filing motions to dismiss and motions for summary judgment as to the statute of repose is November 19, 2021. The deadline for filing motions to dismiss and motions for summary judgment as to all other issues is February 10, 2023.
- 6) The deadline for filing motions to exclude testimony on *Daubert* and related grounds is February 10, 2023.
- 7) Motions in limine shall be filed seven days before the pretrial conference. It is not the normal practice to hold hearings on motions in limine or to rule on them prior to the first day of trial. Counsel should plan accordingly.
- 8) The parties shall comply with all other stipulations and agreements recited in their Rule 26(f) planning report that are not inconsistent with this order.

¹ While treating medical and mental health care providers are generally not considered "specially retained experts," not all their opinions relate to the care and treatment of a patient. Their opinion testimony is limited to what is stated within their treatment documentation. As to each such expert, any opinions which are not stated within that expert's treatment records and reports must be separately and timely disclosed.

- 9) All requests for changes of deadlines or settings established herein shall be directed to the undersigned magistrate judge, including all requests for changes of trial dates. Such requests will not be considered absent a showing of due diligence in the timely progression of this case and the recent development of circumstances, unanticipated prior to the filing of the motion, which require that additional time be allowed.

Dated this 10th day of June, 2022.

BY THE COURT:

s/ Cheryl R. Zwart
United States Magistrate Judge